

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

WILLIS ERIC SMITH

PLAINTIFF

v.

CIVIL ACTION NO. 5:16-cv-68-DCB-MTP

PAULINE MORRIS, *et al.*

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on Magistrate Judge Michael T. Parker's Report and Recommendation (docket entry 31), to which no objections were filed. Having carefully reviewed the same, the Court finds that plaintiff Willis Eric Smith ("Smith") has failed to serve or otherwise prosecute his claims against defendant T.S.D. Trucking, Inc. ("T.S.D. Trucking").

Smith filed his complaint against the named defendants on July 11, 2016 in the Lincoln County Circuit Court, and the case was removed to this court on August 12, 2016. From the record, it appears that summons was issued for T.S.D. Trucking but not served, and T.S.D. Trucking has not entered any appearance in the case to date.¹ On January 20, 2017, Magistrate Judge Parker entered an order (docket entry 15), directing the plaintiff to show cause within ten days as to why his claims against the unserved defendant

¹ The state court record contains an unsigned certified mail receipt for the defendant, along with a letter written to Plaintiff's counsel by T.S.D. Trucking informing counsel that T.S.D. Trucking was not involved in, or associated with, the automobile accident forming the basis of this suit. See Doc. 10, pp. 38-39, 80.

should not be dismissed. Plaintiff Smith has neither responded to the order, nor taken any additional action to address the status of service on defendant T.S.D. Trucking. Therefore, the Court adopts the Report and Recommendation and shall dismiss Plaintiff's claims against T.S.D. Trucking without prejudice pursuant to Federal Rules of Civil Procedure 41(b) and 4(m).

Accordingly,

IT IS HEREBY ORDERED that Magistrate Judge Michael T. Parker's Report and Recommendation (docket entry 31) is ADOPTED as the findings and conclusions of this Court;

IT IS FURTHER ORDERED that all claims against defendant T.S.D. Trucking, Inc. are dismissed without prejudice.

SO ORDERED, this the 28th day of April, 2017.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE